

RECORDATION NO. 8505 Filed & Recorded

OCT 5 1976 - 11 45 AM

Herbert B. Kregel  
General Counsel

BURLINGTON NORTHERN INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 8505 Filed & Recorded

OCT 5 1976 - 11 45 AM

Frank S. Farrell  
Vice President-Law

RECORDATION NO. 8505-B Filed & Recorded

OCT 5 1976 - 11 45 AM

INTERSTATE COMMERCE COMMISSION

Curtis H. Berg  
Sr. Associate General Counsel  
— Commerce

James R. Walker  
John C. Smith  
Reginald Ames  
Louis A. Harris  
Associate General Counsel

Harold K. Bradford, Jr.  
Richard V. Wicks  
Byron D. Olsen  
Richard M. Gleason  
Barry McGrath  
Robert L. Bartholic  
Assistant General Counsel

Donald C. Knickerbocker  
George A. Morrison  
Assistant General Counsel—Taxes

Peter M. Lee  
William R. Power  
James W. Becker  
Nicholas P. Moros  
Thomas W. Spence  
Ralph S. Nelson  
Attorneys

Office of the Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

October 4, 1976

OCT 5

INTERSTATE COMMERCE COMMISSION

Dear Sirs:

Enclosed for filing pursuant to Section 20c of the Interstate Commerce Act are ten original counterparts each of:

1. Conditional Sale Agreement dated as of July 1, 1976, among General Motors Corporation (Electro-Motive Division), General Electric Company and United States Trust Company of New York and related Agreement and Assignment dated as of July 1, 1976 between General Motors Corporation (Electro-Motive Division), General Electric Company and Continental Illinois National Bank and Trust Company of Chicago; and
2. Lease of Railroad Equipment dated as of July 1, 1976 between Burlington Northern Inc. and United States Trust Company of New York and related Assignment of Lease and Agreement dated as of July 1, 1976 and Continental Illinois National Bank and Trust Company of Chicago,

The names and addresses of the parties to the above listed documents are as follows:

RECEIVED  
OCT 5 11 41 AM '76

I.C.C.  
FEE OPERATION BR.

Vendor, Builder:

General Motors Corporation  
(Electro-Motive Division)  
LaGrange, Illinois 60525

General Electric Company  
2901 East Lake Road  
Erie, Pennsylvania 16531

Owner-Trustee, Lessor:

United States Trust Company  
of New York  
130 John Street  
New York, New York 10038

Agent:

Continental Illinois National Bank and  
Trust Company of Chicago  
231 South LaSalle Street  
Chicago, Illinois 60693

Office of the Secretary  
October 4, 1976  
Page 2

Lessee: Burlington Northern Inc.  
176 East Fifth Street  
St. Paul, Minnesota 55101

A general description of the equipment covered by the enclosed Conditional Sale Agreement, Agreement and Assignment, Lease of Railroad Equipment, and Assignment of Lease and Agreement is as follows:

- 20 3,000 HP Model SD-40-2 diesel locomotives  
General Motors Corporation (Electro-Motive  
Division), Builder, Burlington Northern Road  
Nos. 6753-6772, inclusive.
- 10 3,000 HP Model C-30-7 diesel electric loco-  
motives, General Electric Company, Builder,  
Burlington Northern Road Nos. 5500-5509, in-  
clusive.

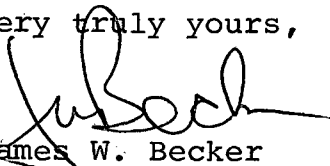
Each unit of the equipment described above will be plainly, distinctly, permanently and conspicuously marked on each side thereof in letters not less than one inch in height with the following legend:

"OWNERSHIP SUBJECT TO A SECURITY AGREEMENT  
FILED UNDER THE INTERSTATE COMMERCE ACT,  
SECTION 20c."

Such equipment will also be lettered "Burlington Northern Inc.", "Burlington Northern", "BNI", or "BN", or in some other appropriate manner for the purpose of identification of the leasehold interest of Burlington Northern Inc. therein.

Enclosed is a check to your order for \$100 in payment of the recordation fee. Please stamp the recordation data of the Commission on the eight extra counterparts of each of the four documents and return them to the bearer of this letter.

Very truly yours,

  
James W. Becker

JWB:ed

Enclosures

UCL 5 1976-11 45 AM

INTERSTATE COMMERCIAL BANK

ASSIGNMENT OF LEASE AND AGREEMENT dated as of July 1, 1976 (hereinafter called this Assignment), by and between UNITED STATES TRUST COMPANY OF NEW YORK, acting as a Trustee (hereinafter called the Owner-Trustee), under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with General Electric Credit Corporation, (hereinafter called the Owner) and CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as Agent (hereinafter called the Vendor) under a Finance Agreement dated as of the date hereof (hereinafter called the Finance Agreement).

WHEREAS the Owner-Trustee is entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Security Documentation), with General Motors Corporation (Electro-Motive Division) and General Electric Company (such corporations hereinafter called collectively the Builders), providing for the sale to the Owner-Trustee of the units of railroad equipment (hereinafter called the Units) described in Annex B thereto as are delivered to and accepted by the Owner-Trustee thereunder;

WHEREAS the Owner-Trustee and Burlington Northern Inc. (hereinafter called the Lessee) have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease), providing for the leasing by the Owner-Trustee to the Lessee of the Units; and

WHEREAS, in order to provide security for the obligations of the Owner-Trustee under the Security Documentation and as an inducement to the Vendor to invest in the Conditional Sale Indebtedness (as that term is defined in the Security Documentation), the Owner-Trustee has agreed to assign for security purposes its rights in, to and under the Lease to the Vendor;

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. Subject to the provisions of Paragraph 10 hereof, the Owner-Trustee hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Owner-Trustee under the Security Documentation and the Finance Agreement, all the Owner-Trustee's right, title and interest, powers, privileges, and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Owner-Trustee from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Owner-Trustee is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Owner-Trustee hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Owner-Trustee or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Owner-Trustee is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Owner-Trustee pursuant to the Lease. To the extent received, the Vendor will, (i) subject to the limitations contained in Section 4.9 and in Article 23 of the Security Documentation, apply such Payments to satisfy the obligations of the Owner-Trustee under the Security Documentation and (ii) immediately pay any balance to the Owner-Trustee by check mailed to the Owner-Trustee on such date or, upon written request of the Owner-Trustee, by bank wire to the Owner-Trustee at such address as may be specified to the Vendor in writing, and such balance shall be retained by the Owner-Trustee. If the Vendor shall not receive any rental payment under § 3.1 of the Lease when due, the Vendor shall immediately notify the Owner-Trustee and the Lessee by telegraphic or telecommunication at the addresses set forth in the Lease.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Vendor to, or transfer, or pass, or in any way affect or modify the liability of the Owner-Trustee under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all

obligations of the Owner-Trustee to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Owner-Trustee or persons other than the Vendor.

3. The Owner-Trustee will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Owner-Trustee; without the written consent of the Vendor, the Owner-Trustee will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Owner-Trustee agrees that any amendment, modification or termination thereof without such consent shall be void.

4. Subject to the provisions of Paragraph 10 hereof, the Owner-Trustee does hereby constitute the Vendor the Owner-Trustee's true and lawful attorney, irrevocably, with full power (in the name of the Owner-Trustee, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Owner-Trustee is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Vendor may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all sums due from the Owner-Trustee under the Security Documentation (without regard to any limitation of liability of the Owner-Trustee contained therein), this Assignment and all rights herein assigned to the Vendor shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Owner-Trustee without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Owner-Trustee at that time will (a) execute an instrument releasing its entire estate, right, title and interest in the Lease and transferring such estate, right, title and interest to the Owner-Trustee and (b) execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Owner-Trustee in order to confirm or further assure

the interest in the Lease which shall have reverted or been so transferred to the Owner-Trustee.

6. The Owner-Trustee will, from time to time, execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Vendor in order to confirm or further assure, the interest of the Vendor hereunder.

7. Pursuant to the provisions of the Finance Agreement relating to assignment to a successor agent thereunder or if a Declaration of Default under the Security Documentation has been made and is in effect, the Vendor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Vendor hereunder. The Vendor will give written notice of any such assignment to the Owner-Trustee and the Lessee.

8. This Assignment shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and Section 86 of the Railway Act of Canada.

9. The Owner-Trustee shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Vendor at its address set forth in Article 22 of the Security Documentation, or at such other address as the Vendor shall designate.

10. The Vendor hereby agrees with the Owner-Trustee that the Vendor will not, so long as no event of default under the Security Documentation has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Owner-Trustee to the Vendor by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Lease and the Security Documentation, the Owner-Trustee may, so long as no event of default under the Security Documentation has occurred and is continuing, exercise or enforce, or seek to exercise or enforce or avail itself of, such rights, powers, privileges, authorizations or benefits; provided, however,

that the Owner-Trustee may not terminate the Lease, or amend the Lease in any material respect or otherwise exercise or enforce or seek to exercise or enforce its rights, powers, privileges and remedies arising under subparagraph (b) of § 13.1 of the Lease without the prior written consent of the Vendor.

11. It is understood and agreed that each and all of the representations, undertakings and agreements herein made on the part of the Owner-Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements by United States Trust Company of New York and its successors and assigns, or for the purpose or with the intention of binding said trust company personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Assignment is executed and delivered by the said trust company solely in the exercise of the powers expressly conferred upon said trust company as trustee under said Trust Agreement, and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said trust company or against the Owner under such Trust Agreement (except as provided in Section 5.02 of the Trust Agreement) or on account of any representation, undertaking or agreement of the Owner-Trustee or such Owner (except as provided in Section 5.02 of the Trust Agreement), either expressed or implied, all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under any of it, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

[Corporate Seal]

UNITED STATES TRUST COMPANY OF  
NEW YORK, as Trustee,

Attest:


by

  
Assistant Secretary

  
Assistant Vice President


CONTINENTAL ILLINOIS NATIONAL BANK  
AND TRUST COMPANY OF CHICAGO,  
as Agent,

by

  
Vice President

[Corporate Seal]

Attest:

  
Trust Officer



STATE OF NEW YORK, )  
 ) SS.:  
COUNTY OF NEW YORK, )

On this 20 day of ~~SEPTEMBER~~ 1976, before me personally appeared ~~IRENE R. SIOCCA~~, to me personally known, who, being by me duly sworn, says that she is an Assistant Vice President of UNITED STATES TRUST COMPANY OF NEW YORK, that one of the seals affixed to the foregoing instrument is the corporate seal of said ~~trust company~~ and that said instrument was signed and sealed on behalf of said ~~trust company~~ by authority of its By-Laws and he acknowledged that the execution of the foregoing instrument was the free act and deed of said ~~trust company~~.

  
\_\_\_\_\_  
Notary Public

[Notarial Seal]

My Commission expires

CHRISTINE C. COLLINS  
Notary Public, State of New York  
No. 31-4624735  
Qualified in New York County  
Certificate filed in New York County  
Commission Expires March 30, 1978

STATE OF ILLINOIS,)

) SS.:

COUNTY OF COOK, )

On this 24<sup>th</sup> day of September 1976, before me personally appeared DONALD W. ALFVIN, to me personally known, who, being by me duly sworn, says that he is a Vice President of CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, that one of the seals affixed to the foregoing instrument is the corporate seal of said national bank and that said instrument was signed and sealed on behalf of said national bank by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national bank.

Notary Public

[Notarial Seal]

My Commission expires

April 10, 1977

ACKNOWLEDGMENT OF NOTICE OF  
ASSIGNMENT OF LEASE

Receipt of a copy of, and due notice of the assignment made by the foregoing Assignment of Lease and Agreement is hereby acknowledged as of the date thereof.

BURLINGTON NORTHERN INC.

by

Frank H. Coyne  
Executive Vice President-  
Finance and Administration